

AMENDED IN ASSEMBLY APRIL 7, 2014

AMENDED IN ASSEMBLY MARCH 19, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2350**

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**Introduced by Assembly Member Bonilla**

February 21, 2014

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An act to amend Section 66281.5 of the Education Code, relating to postsecondary education.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2350, as amended, Bonilla. Postsecondary education: Equity in Higher Education Act: prevention of pregnancy discrimination.

(1) Existing law, known as the Donahoe Higher Education Act, sets forth, among other things, the missions and functions of California's public and independent segments of higher education and their respective institutions of higher education. Provisions of the act apply to the University of California only to the extent that the Regents of the University of California, by appropriate resolution, act to make a provision applicable.

A portion of the Donahoe Higher Education Act known as the Equity in Higher Education Act declares, among other things, that it is the policy of the State of California that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the postsecondary educational institutions of the state.

This bill would express various legislative findings and declarations relating to pregnancy discrimination. The bill would add to the Equity in Higher Education Act a provision specifying that this policy of

freedom from discrimination includes, but is not limited to, freedom from pregnancy discrimination as described in a specified federal statute.

This bill would prohibit postsecondary educational institutions, *including the faculty, staff, or other employees of these institutions*, from requiring a graduate student to take a leave of absence, withdraw from the graduate program, or limit his or her graduate studies solely due to pregnancy or pregnancy-related issues. The bill would require postsecondary educational institutions, *including the faculty, staff, or other employees of these institutions*, to reasonably accommodate pregnant graduate students, as specified, so that they may complete their graduate courses of study and research. The bill would require the maintenance of the student status and ~~status~~ *standing* in the graduate program of graduate students who choose to take leaves of absence because they are pregnant or have recently given birth. The bill would require postsecondary educational institutions to allow graduate students ~~who choose~~, *if they so choose*, to take leaves of absence of *at least 2 academic terms* because they are pregnant or have recently given birth ~~up to~~, *unless there is a medical reason for a longer absence*. *The bill would also allow these students at least 12 additional months to prepare for and pass preliminary and qualifying examinations and an extension of up to at least 12 months toward normative time to degree while they are in candidacy for a graduate degree, unless a longer extension is medically necessary.*

(2) The Equity in Higher Education Act requires each postsecondary educational institution in the state to have a written policy on sexual harassment.

This bill would require the written policy on sexual harassment to include procedures for Title IX pregnancy discrimination complaints and the name and contact information of the institution's Title IX compliance officer.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Title IX of the Education Amendments of 1972 (20 U.S.C.
- 4 Sec. 1681, et seq.) is best known for providing equity to female

1 and male athletics, but it also specifically addresses pregnancy  
2 discrimination.

3 (b) In 2012, the Obama administration began an initiative to  
4 increase the number of women in the science, technology,  
5 engineering, and mathematics (STEM) fields. President Obama  
6 tasked the United States Department of Education to lead an  
7 initiative with the Department of Justice, the Department of Energy,  
8 the National Aeronautics and Space Administration, the National  
9 Science Foundation, and the Department of Health and Human  
10 Services to create a common guidance program to ensure that grant  
11 recipients are complying with Title IX.

12 (c) The federal initiative focuses on women scientists, but Title  
13 IX compliance is also incredibly important across all academic  
14 fields at all colleges and universities.

15 (d) Preventing pregnancy discrimination in the STEM fields is  
16 particularly important because it is known to hinder the  
17 advancement of women in these fields. For example, even though  
18 women represent between 35 and 40 percent of graduate students  
19 in chemistry, less than 13 percent of faculty at the top 50  
20 universities in the United States are women.

21 (e) According to a survey of doctorate recipients by the National  
22 Science Foundation, “women who are married with children in  
23 the sciences are 35 percent less likely to enter a tenure track  
24 position after receipt of their Ph.D. than married men with children,  
25 and they are 27 percent less likely than their male counterparts to  
26 achieve tenure upon entering a tenure track job.”

27 (f) The same phenomenon has appeared in non-STEM fields,  
28 as studies indicate that married mothers who earn Ph.D.s are 28  
29 percent less likely to obtain a tenure track job than are married  
30 men with children who earn Ph.D.s.

31 (g) While attending graduate school, many graduate students  
32 move in and out of university employment. This affects their  
33 ~~eligibility~~ *eligibility* for benefits and pregnancy accommodations,  
34 except for their protections under Title IX.

35 (h) Many universities and colleges are not in compliance with  
36 Title IX, and students are unaware that they are protected from  
37 pregnancy discrimination.

38 (i) Preventing pregnancy discrimination against graduate  
39 students is important for both genders so that both men and women

1 can bond with new children and have a framework with which to  
2 approach these discussions with their academic institutions.

3 SEC. 2. Section 66281.5 of the Education Code is amended to  
4 read:

5 66281.5. (a) (1) (A) It is the policy of the State of California,  
6 pursuant to Section 66251, that all persons, regardless of their sex,  
7 should enjoy freedom from discrimination of any kind, including,  
8 but not limited to, pregnancy discrimination as described in Title  
9 IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681,  
10 et seq.), in the postsecondary educational institutions of the state.

11 (B) Each of the following requirements shall be applicable to  
12 postsecondary educational institutions in this state:

13 (i) A postsecondary educational institution, *including the faculty,*  
14 *staff, or other employees of the institution,* shall not require a  
15 graduate student to take a leave of absence, withdraw from the  
16 graduate program, or limit his or her graduate studies solely due  
17 to pregnancy or pregnancy-related issues.

18 (ii) A postsecondary educational institution, *including the*  
19 *faculty, staff, or other employees of the institution,* shall reasonably  
20 accommodate pregnant graduate students so they may complete  
21 their graduate courses of study and research. Reasonable  
22 ~~accommodation~~ *accommodation* within the meaning of this clause  
23 may include, but is not necessarily limited to, allowances for the  
24 pregnant student's health and safety, such as allowing the student  
25 to maintain a safe distance from hazardous substances, ~~excusing~~  
26 ~~absences that are medically necessary,~~ and allowing the student  
27 to make up tests and assignments that are missed for  
28 pregnancy-related reasons. *These accommodations may also*  
29 *include the excusing of absences that are medically necessary, as*  
30 *is already required under Title IX.*

31 (iii) A graduate student who chooses to take a leave of absence  
32 because she is pregnant or has recently given birth ~~shall~~ *may*  
33 maintain her status as a student during that leave of absence.

34 (iv) A graduate student who chooses to take a leave of absence  
35 because she is pregnant or has recently given birth shall maintain  
36 her ~~status~~ *standing* in the graduate program during an absence ~~of~~  
37 ~~up to two academic terms,~~ *for a period consistent with the policies*  
38 *of the postsecondary educational institution, or for a period of two*  
39 *academic terms, whichever period is longer,* unless there is a  
40 medical reason for a longer absence, in which case her ~~status~~

1 *standing* in the graduate program shall be maintained during that  
2 period of absence.

3 (v) A graduate student who chooses to take a leave of absence  
4 because she is pregnant or has recently given birth shall be allowed  
5 ~~up to a period consistent with the policies of the postsecondary~~  
6 *educational institution, or a period of 12 additional months,*  
7 *whichever period is longer;* to prepare for *and pass* preliminary  
8 and qualifying examinations and ~~an extension of up to at least 12~~  
9 months toward normative time to degree while in candidacy for a  
10 graduate degree, *unless a longer extension is medically necessary.*

11 (2) The purpose of subdivisions (b) to (g), inclusive, is to  
12 provide notification of the prohibition against sexual harassment  
13 *and pregnancy discrimination as a form* ~~as a form~~ *forms* of sexual  
14 discrimination and to provide notification of available remedies.

15 (b) Each postsecondary educational institution in the State of  
16 California shall have a written policy on sexual harassment. It is  
17 the intent of the Legislature that each educational institution in  
18 this state include this policy in its regular policy statement rather  
19 than distribute an additional written document. This written policy  
20 shall include procedures for Title IX pregnancy discrimination  
21 complaints.

22 (c) The postsecondary educational institution's written policy  
23 on sexual harassment shall include information on where to obtain  
24 the specific rules and procedures for reporting charges of sexual  
25 harassment and for pursuing available remedies. The written policy  
26 shall include the name and contact information of the institution's  
27 Title IX compliance officer.

28 (d) A copy of the postsecondary educational institution's written  
29 policy on sexual harassment shall be displayed in a prominent  
30 location in the main administrative building or other area of the  
31 campus or schoolsite. "Prominent location" means that location,  
32 or those locations, in the main administrative building or other  
33 area where notices regarding the institution's rules, regulations,  
34 procedures, and standards of conduct are posted.

35 (e) A copy of the postsecondary educational institution's written  
36 policy on sexual harassment, as it pertains to students, shall be  
37 provided as part of any orientation program conducted for new  
38 students at the beginning of each quarter, semester, or summer  
39 session, as applicable.

1 (f) A copy of the postsecondary educational institution's written  
2 policy on sexual harassment shall be provided for each faculty  
3 member, all members of the administrative staff, and all members  
4 of the support staff at the beginning of the first quarter or semester  
5 of the school year, or at the time that ~~there is~~ a new employee *is*  
6 hired.

7 (g) A copy of the postsecondary educational institution's written  
8 policy on sexual harassment shall appear in any publication of the  
9 institution that sets forth the comprehensive rules, regulations,  
10 procedures, and standards of conduct for the institution.